

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

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In re: : Chapter 11
:
CIRCUIT CITY STORES, INC., *et al.* : Case No. 08-35653-KRH
:
Debtors. : Jointly Administered
: Judge Kevin R. Huennekens
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**MOTION FOR EXPEDITED HEARING ON THE MOTION TO
COMPEL ASSUMPTION OR REJECTION OF AGREEMENTS
BETWEEN THE ASSURANT COMPANIES AND CIRCUIT CITY
STORES, INC., OR IN THE ALTERNATIVE MOTION FOR RELIEF FROM
STAY TO TERMINATE AGREEMENTS, AND MEMORANDUM IN SUPPORT**

Federal Warranty Services Corporation, Sureway, Inc., American Bankers Insurance Company of Florida, and United Service Protection, Inc. (collectively, the “Assurant Companies”), by and through their counsel hereby move (the “Motion”) this Court for an expedited hearing on January 29, 2009, pursuant to Rule 9013-1(N) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Eastern District of Virginia (the “Local Rules”), to consider the *Motion to Compel Assumption or Rejection of Agreements between the Assurant Companies and Circuit City Stores, Inc., or in the Alternative Motion for Relief from Stay to Terminate Agreements, and Memorandum in Support*

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(the “Motion to Compel”). In support of this Motion, the Assurant Companies respectfully state as follows:

I. Jurisdiction

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

3. The predicates for the relief requested herein are section 105(a) of 11 U.S.C. §§ 101-1532 (as amended, the “Bankruptcy Code”) and Local Rule 9013-1(N).

II. Relief Requested and Basis Thereof

4. Local Rule 9013-1 allows the setting of a hearing on an expedited basis as requested herein.

5. Additionally, section 105 of the Bankruptcy Code provides that the Court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

6. On January 26, 2009, the Assurant Companies filed the Motion to Compel, wherein they seek this Court’s entry of an order (a) compelling Circuit City Stores, Inc., one of the debtors in the above-captioned bankruptcy cases (“Circuit City”), to assume or reject, no later than ten (10) days after entry of the order granting the Motion to Compel, (i) that certain Consumer Electronics Program Agreement (the “CE Agreement”), by and between Circuit City, the Assurant Companies and General Electric Company (“GE”), dated December 1, 2006, as amended, as well as all related agreements, including but no limited to the Consumer Electronics Program Services Agreement (the “Services Agreement”) and (ii) that certain Second Amended

and Restated Agreement, dated December 1, 2006 (the “PC Agreement”), by and between Circuit City and GE, and subsequently assigned and transferred by GE to the Assurant Companies; or (b) in the alternative, lifting the automatic stay of section 362(a) of the Bankruptcy Code to authorize the termination of the CE Agreement, the PC Agreement and related agreements, and (c) granting such other and further relief as this Court deems just and proper.

7. The Assurant Companies believe that it is critical that this Court consider the Motion to Compel no later than January 29, 2009. The Assurant Companies need to know immediately whether Circuit City intends to assume or reject the CE, PC Agreements and all related agreements. By stating to this Court on January 16, 2009 that it intends to liquidate its assets, Circuit City has indicated that it will not be able to continue the administration of claims for repair or replacement which is required of them under the Services Agreement. An assumption of the CE, PC Agreements and related agreements would establish the relationship during the liquidation process, and ensure that Circuit City pays the Assurant Companies the funds required under the CE Agreement, the PC Agreements and related agreements to cover costs associated with the service contracts held by consumers. On the other hand, a rejection would allow the Assurant Companies to know what steps they need to take in protecting themselves and the consumers who have purchased the service contracts.

III. Local Rule 9013(N) Certification

8. Pursuant to Local Rule 9013(N), I certify that:

a. I am a member of the Bar of this Court.

b. I have carefully examined this matter and have concluded that there is a true need for an emergency hearing.

- c. I have not created the emergency through the lack of diligence.
- d. I have made a *bona fide* effort to resolve the matter without a hearing.

IV. Request for Waiver of Local Rule 9013-1(G)

9. The Assurant Companies respectfully request that this Court treat this Motion as a written memorandum of points and authorities or waive any requirement that this Motion be accompanied by a written memorandum of points and authorities as described in Local Rule 9013-1(G).

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WHEREFORE, the Assurant Companies respectfully request that this Court enter the proposed order attached hereto setting the Motion to Compel for consideration at an expedited hearing on January 29, 2009, and grant such other and further relief as may be just and proper.

Dated: January 26, 2009
Richmond, Virginia

Respectfully Submitted,

/s/ J.R. Smith
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Company of Florida, Federal Warranty
Service Corporation, Sureway, Inc., United
Service Protection, Inc., and Assurant, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion has been served on the parties receiving notice via the Court's CM/ECF system and the following parties via overnight mail, on this 26th day of January, 2009.

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Counsel for Official Committee of Unsecured Creditors

/s/ J.R. Smith_____

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

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In re:	:	Chapter 11
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CIRCUIT CITY STORES, INC., <i>et al.</i>	:	Case No. 08-35653-KRH
	:	
Debtors.	:	Jointly Administered
	:	Judge Kevin R. Huennekens
-----	X	

**ORDER GRANTING MOTION FOR EXPEDITED HEARING ON
MOTION TO COMPEL ASSUMPTION OR REJECTION OF
CONSUMER ELECTRONICS PROGRAM AGREEMENTS BETWEEN
THE ASSURANT COMPANIES AND CIRCUIT CITY STORES, INC., OR
IN THE ALTERNATIVE MOTION FOR RELIEF FROM STAY TO
TERMINATE AGREEMENTS, AND MEMORANDUM IN SUPPORT**

This matter came before the Court on the Motion of American Bankers Insurance Company of Florida, Federal Warranty Service Corporation, Sureway, Inc., United Service Protection, Inc., and Assurant, Inc. (collectively, the “Assurant Companies”) for an order setting the *Motion to Compel Assumption or Rejection of Agreements Between the Assurant Companies and Circuit City Stores, Inc., or in the Alternative Motion for Relief from Stay to Terminate Agreements, and Memorandum in Support* (the “Motion to Compel”) for an expedited hearing.

The Court finds that (i) an emergency exists with respect to the relief requested by the Motion to

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Compel, (ii) the Assurant Companies did not, through any lack of due diligence, create the emergency, and (iii) the Assurant Companies have made a *bona fide* effort to resolve the matter addressed by the Motion to Compel prior to seeking an expedited hearing. The Court, therefore, finding it reasonable and necessary to do so, hereby ORDERS that:

1. A hearing to consider the Motion to Compel shall be conducted by the Court on January 29, 2009 at 10:00 a.m.

2. The clerk shall issue copies of this Order to those parties listed on the Certificate of Service.

ENTERED in Richmond, Virginia this _____ day of _____, 2009.

United States Bankruptcy Judge

WE ASK FOR THIS:

/s/ J.R. Smith

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Service Corporation, Sureway, Inc., United
Service Protection, Inc., and Assurant, Inc*

LOCAL RULE 9022-1(C)(1) CERTIFICATION

I hereby certify that the foregoing has been either endorsed by or served upon all necessary parties, via the Court's CM/ECF system and the following parties via overnight mail, on the 26th day of January, 2009.

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Counsel for Official Committee of Unsecured Creditors

/s/ J.R. Smith